APPENDIX B

ST JOHN'S COLLEGE
within the University of Sydney

POLICY REGISTER
SJC STUDENT COMPLAINTS PROCEDURE – last updated 26 August 2024

SJC STUDENT COMPLAINTS PROCEDURE

1 Name and commencement

(1) This is the *St John's College Student Complaints Procedure*.

(2) This Procedure commences on 1 February 2019.

2 Purpose

(1) The College acknowledges that complaints provide an opportunity to identify areas for improvement, and to enhance the quality of its services and the experience of its students and staff.

(2) This purpose of this Procedure is:

(a) to support the College's commitment to enriching the experience of College life for all its students, staff and associates;

(b) to set out the procedure for complaints when complaints are made by or about students and where complaints are made by applicants;

(c) to provide how complaints may be raised and how they will be assessed and resolved, where appropriate; and

(d) to prescribe the manner in which investigations are conducted, where required.

3 Application

(1) Subject to subclause (2) of this Clause, this Procedure applies:

(a) to a complaint made by a student which concerns College-related conduct;

(b) to a complaint made by any person about one or more students which concerns College-related conduct;

(c) to a complaint made by an applicant which concerns College-related conduct.

(2) Complaint procedure may not be used to dispute:

(a) the outcome of an application for admission to the College;

(b) the outcome of an application by a student for re-admission;

(c) a finding of fact, the imposition of a penalty, or an interim direction under the Disciplinary Code.

(3) The College will decline to act on a complaint to the extent that it seeks to dispute a matter of the kind set out in subclause (2) of this Clause.

(4) The College may decline to investigate a complaint in circumstances where the University of Sydney's policies otherwise supersede this procedure or provide for independent dealing with a complaint, as agreed between the College and the University of Sydney.

4 Interpretation

(1) For the purposes of this Procedure:

(a) ***complaint*** includes all of the ways in which problems and concerns (however described) which require the involvement of College staff to facilitate resolution might be raised by students, by workers, by associates, by applicants, or by the general public, whether orally or in writing (including email);

(b) general inquiries, feedback and comments (including on social media sites) will not normally be considered a complaint;

(c) if in doubt, the complainant should be asked to confirm whether they wish to categorise their inquiry, feedback or comment as a complaint.

(2) The Rector may direct that a person shall exercise the functions of the Rector under this Procedure, either generally or for a period of time or in relation to a particular matter, in which case the expression ***Rector*** in this Procedure shall be taken to refer to any such person so directed by the Rector.

(3) In this Procedure:

applicant	means an applicant for admission to the College.
Assisted Resolution	means resolution between the complainant and the respondent in accordance with clause 11, assisted by the College.
associate	means consultants and contractors to the College, tutors, members of College Council and committees, and any other persons appointed or engaged by the College to perform duties or functions on its behalf.
College land	means any land occupied or used in connection with the College, including the whole or any part of any building or structure on College land.
College-related conduct	means any conduct that is connected to the College, including conduct that: • refers or relates to the College, its activities, or its staff, associates or students in their status as staff, associates or students of the College; • occurs on, or in connection with, College land or other property owned by the College; • occurs at, or in connection with, another Residential College; • occurs at or in connection with university owned or affiliated student accommodation; • occurs using, or is facilitated by, College ICT resources or other College equipment; • occurs during, or relates to, the performance of duties for the College; • occurs during, or in connection with, any College related function or event (whether sanctioned or organised by the College or not) or when representing the College in any capacity; • occurs during any event run by or affiliated with the St John's College Student Club or other College organisations, clubs or societies (whether sanctioned or organised by the College or not).

complainant means a person who has made a complaint, or in the case of a complaint made on behalf of another person, the person who is alleged to have been the subject of the conduct complained of.

Determination means a determination made under clause 12.

Disciplinary Code means the provisions relating to communications with College authorities, warnings, investigations, interim directions and disciplinary procedures in the *General Regulation*.

preliminary Assessment means an assessment carried out under clause 10.

Residential College means one or more of:

- Mandelbaum House;
- Sancta Sophia College;
- St Andrew's College;
- St John's College;
- St Paul's College;
- Wesley College;
- The Women's College.

respondent means a person whose decision or conduct is the subject of a complaint.

sexual activity means sexual activity as defined in the *SJC Student Sexual Misconduct and Sexual Harassment Policy*

sexual harassment means sexual harassment as defined in the *SJC Student Sexual Misconduct and Sexual Harassment Policy*

sexual misconduct means sexual misconduct as defined in the *SJC Student Sexual Misconduct and Sexual Harassment Policy*

staff or staff member means an employee of the College, including a casual employee.

Student includes:

(a) a person who has been admitted as either a resident student of the College or an affiliate (non-resident) student of the College, for the duration of such admission; and

(b) any other person resident in the College.

For the purpose only of commencing a complaint under this Procedure, a person who is not currently a student of the College will be considered to be a student if:

(a) they were a student of the College within one year prior to complaint being made; and

(b) the respondent is a current staff member, student, associate or worker of the College.

University related conduct means any conduct that is connected to the University, including conduct that:

- refers or relates to the University, its activities, or its staff, affiliates or students in their status as staff, affiliates or students of the University;
- occurs on, or in connection with, University lands or other property owned by the University;
- occurs at, or in connection with, a Residential College;
- occurs at or in connection with University owned or affiliated student accommodation;
- occurs using, or is facilitated by, University ICT resources or other University equipment;
- occurs during, or relates to, the performance of duties for the University;
- occurs during, or in connection to, any University related function or event (whether sanctioned or organised by the University or not) or when representing the University in any capacity;
- occurs during, or in connection to any event run by or affiliated with student representative organisations, student clubs or student societies (whether sanctioned or organised by the University or not);
- occurs during, or in connection to, students' clinical, practicum, internship or work experience placements; or
- occurs while a University of Sydney student is participating in an overseas exchange, study abroad or other approved program.

worker means a person who carries out work in any capacity for the College including work as:

- a staff member;
- a contractor or subcontractor;
- an employee of a contractor or subcontractor;
- an employee of a labour hire company who has been assigned to work in the College;
- an outworker
- an apprentice or trainee;
- a student gaining work experience performing work on a voluntary basis; or
- a volunteer.

An associate may, in relevant circumstances, be a worker under this Procedure.

5 General principles

(1) Complaints should be resolved sensitively, fairly, confidentially, and with a minimum of disruption while following the principles of procedural fairness.

(2) The College must address complaints in a timely manner and take reasonable steps to finalise the resolution process as soon as practicable.

(3) Complainants and respondents must have a reasonable opportunity to state or respond to the complaint orally and in writing, and to provide any documents relevant to the complaint.

(4) Participants are expected reasonably to participate and co-operate during any complaint or resolution process.

(5) Complainants and respondents may be accompanied to any meeting by a support person, if they wish.

6 Informal resolution

(1) Where appropriate, students and applicants should seek to resolve issues informally by directly approaching the person they believe is responsible for the issue (either on their own or with another person as a support person), and:

(a) telling them what the issue is;

(b) asking them to stop or to behave differently; and

(c) where appropriate, keeping a written record of this action.

(2) This clause does not apply to complaints concerning alleged criminal conduct, including sexual misconduct.

7 Making a complaint (non-sexual misconduct or non-sexual harassment matters)

(1) Students and applicants who are unable to resolve a problem or concern through informal resolution, or consider informal resolution inappropriate, may make a complaint by contacting the Rector.

(2) If any person other than the Rector receives or otherwise becomes aware of a complaint on behalf of an applicant or student, they must refer the complaint to the Rector.

(3) Complainants are not required to put their complaint in writing in the first instance. However, a written complaint will be required if an investigation is needed.

(4) Complainants are required to engage with the complaints process, and to provide sufficient details of their complaint to permit the College to commence and conduct a preliminary Assessment and investigation, as appropriate.

Note: The College is unable to resolve complaints from complainants who decline to provide information about the respondent (if relevant), or who otherwise fail to meet these requirements.

(5) Upon receiving a complaint, the Rector or the Rector's representative will record the following details:

(a) the complainant's name and contact details;

(b) a brief summary of the issues raised in the complaint;

(c) the identity of any persons named in the complaint; and

(d) the outcome or remedy sought by the complainant.

(6) Where a complaint is about the content or application of a College policy or procedure rather than the conduct of particular individual(s):

(a) the complaint will not be considered to have an individual respondent; and

(b) the relevant parties may include any person who has knowledge of, or interest in, the policy or procedure.

8 Making a complaint of sexual misconduct or sexual harassment

(1) Students who have experienced sexual misconduct or sexual harassment have a right to decide whether they want to make a complaint to the College, or not.

(2) The College is committed to supporting students who complain about sexual misconduct or sexual harassment.

(3) A student who:

(a) is unable to resolve a problem or concern through informal resolution, or considers informal resolution inappropriate; or
(b) has experienced sexual misconduct or sexual harassment

may make a complaint by contacting the Rector or the Rector's representative.

(4) Complainants are not required to put their complaint in writing in the first instance. However, a written complaint will be required if an investigation is needed.

(5) Complainants are required to engage with the complaints process, including cooperating with the University of Sydney and providing sufficient details of their complaint to permit the College to commence and conduct a preliminary Assessment, as appropriate.

Note: The College is unable to resolve complaints from complainants who decline to provide information about the respondent, or who otherwise fail to meet these requirements.

(6) Upon receiving a complaint relating to sexual misconduct or sexual harassment, the Rector or the Rector's representative will record the following details:
(a) The complainant's name and contact details;
(b) The names of affected College students, including any bystanders or witnesses;
(c) A brief summary of the issues raised in the complaint, including details of any prospective respondent;
(d) the identity and details of any persons named in the complaint; and
(e) the outcome or remedy sought by the complainant.

(7) Upon receiving a complaint relating to sexual misconduct or sexual harassment, the Rector or the Rector's representative, will:
(a) commence and conduct a preliminary Assessment on the basis of the information obtained in [8(6)], if appropriate; and
(b) refer the complaint to the University of Sydney for investigation in accordance with the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023*.

(8) The University of Sydney may elect to decline to investigate a complaint of sexual misconduct or sexual harassment in circumstances where the substantive facts relating to the complaint render an investigation under the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023* inapplicable.

(9) The Rector or the Rector's representative will investigate a complaint of sexual misconduct or sexual harassment in the event that the University elects not to do so under [8(8)].

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9 Anonymous complaints

(1) In most circumstances, complainants will need to provide their name.

(2) The College will not act on an anonymous complaint unless:

(a) the complaint relates to a College policy or procedure generally and not an individual respondent;

(b) it is not necessary for the respondent to be aware of the identity of the complainant in order to properly respond to the complaint; or

(c) there is independent documentary or other evidence supporting the complaint and the allegation can be tested fairly.

10 Preliminary Assessment

(1) Upon receiving a complaint the Rector or the Rector's representative will conduct a preliminary Assessment of the complaint, which will include assessing the seriousness of the matter complained of and determining the most appropriate course of action to deal with the complaint.

(2) Where reasonable, the preliminary Assessment should be completed within 5 working days of the complaint being received by the Rector or the Rector's representative.

(3) So for as is reasonably practicable, the preliminary Assessment of a complaint of sexual misconduct or sexual harassment made under Clause 8 should be completed within 2 working days of the complaint being received by the Rector or the Rector's representative.

(4) Where this timeframe is not reasonable, the Rector or the Rector's representative will advise the complainant of the reasons for the delay, and of the projected timeframe for completion of the preliminary Assessment.

(5) Where the complaint relates to the conduct of a student, the preliminary Assessment may involve, as appropriate:

(a) convening discussions with the relevant parties (each party may bring a support person to any discussion);

(b) collating and reviewing any relevant documentary material;

(c) considering whether the matter is appropriate for Assisted Resolution;

(d) considering whether action should be taken under the Disciplinary Code.

(6) The Rector may decide to take no further action where:

(a) the complainant has provided insufficient detail or evidence of the issue to enable the matter to be properly assessed;

(b) the complaint does not fall within subclause 3(1);

(c) the matter complained falls within subclause 3(2);

(d) the complaint relates to alleged conduct that occurred more than 12 months before making the complaint and no further occurrence has happened in the ensuing 12 months.

(e) the complaint is frivolous, vexatious or malicious;

(f) the complainant does not wish any further action to be taken.

(7) At the conclusion of the preliminary Assessment, the Rector may give the complainant (and, where appropriate, the respondent) a statement of the outcome of the preliminary Assessment.

(8) Where a complaint relates to the conduct of a staff member or associate (or a worker in the case of a complaint of bullying) the Rector may:

(a) consult with, and refer the complaint (as it relates to the staff member or associate or policy or procedure) to an appropriate member of the College Staff (such as the pastoral support tutor or senior resident tutor) ; and

(b) advise the complainant of the referral.

(9) Where a complaint relates to alleged bullying, harassment or discrimination by a staff member or affiliate (or a worker in the case of a complaint of bullying), the procedures set out in the *SJC Staff Complaints Procedure* will apply.

11 Assisted Resolution

(1) Where a preliminary Assessment determines that Assisted Resolution is appropriate, resolution may include, but is not limited to:

(a) clarifying a misunderstanding;

(b) an apology;

(c) facilitated discussion, including mediation or conciliation;

(d) an agreed plan of action to avoid further incidents; and

(e) implementing awareness-raising or educational sessions about behaviour.

(2) Any facilitated discussion including mediation or conciliation will be conducted on a "without prejudice" basis to enable the parties to openly discuss the resolution of the matter. This means that:

(a) any information disclosed during the mediation or conciliation must be kept confidential in accordance with clause 18; and

(b) the participants must not use or rely on information gained during or in connection with the mediation or conciliation (including any admissions, offers, concessions or statements made by parties) in any other forum, including in any legal or regulatory proceedings.

(3) Where reasonable, the Assisted Resolution process should be completed within 10 working days of the preliminary Assessment.

(4) Where 10 working days is not reasonable, the Rector must advise the complainant of the reasons for the delay, and of the projected timeframe for resolution.

12 Determination when Assisted Resolution is unsuccessful or inappropriate

(1) Where Assisted Resolution is unsuccessful or considered inappropriate, the Rector will determine whether:

(a) the matter should be investigated under clause 13;

(b) action should be taken under the Disciplinary Code or, if appropriate, referred to the police; or

(c) any other action should be taken.

(2) Where reasonable, the Determination should be made within 5 working days of the preliminary Assessment or from the date that the Rector declares that Assisted Resolution has been unsuccessful.

(3) Where 5 working days is not reasonable, the Rector will advise the complainant of the reasons for the delay, and of the projected timeframe for conclusion of the Determination.

(4) Subject to subclause (5), circumstances in which a Determination to take no further action may be made include where:

(a) the person who made the complaint has provided insufficient detail or evidence of the issue to enable the matter to be properly investigated;

(b) the complaint is frivolous, vexatious or malicious;

(c) the complaint relates to alleged conduct that occurred more than 12 months before making the complaint and no further occurrence has happened in the ensuing 12 months.

(5) The Rector will inform the complainant (and, where appropriate, the respondent) in writing of the Determination.

13 Investigation (non-sexual misconduct or non-sexual harassment matters)

(1) The Rector may initiate an investigation:

(a) for a serious complaint (as determined by the College in its absolute discretion, taking into account the complainant's views and circumstances);

(b) where Assisted Resolution is unsuccessful or not appropriate; or

(c) in other circumstances, where the College considers it to be appropriate.

(2) The Rector or the Rector's representative will inform the parties to a complaint;

(a) that an investigation has been initiated;

(b) who is conducting the investigation; and

(c) the expected timeframes of the investigation.

(3) An investigator will provide a respondent with:

(a) a statement of allegations in sufficient detail to enable the respondent to answer the allegations; and

(b) a reasonable period of time within which to answer the allegations.

(4) An investigator shall make findings of fact and may make recommendations for resolving a complaint, in accordance with College rules, protocols, policies and procedures.

(5) Where reasonable, the investigation should be concluded within 10 working days of the Determination made under clause 12.

(6) Where 10 working days is not reasonable, the Rector must advise the complainant of the reasons for the delay, and of the projected timeframe for conclusion of the investigation.

14 Investigation of sexual misconduct or sexual harassment complaints

(1) Upon receiving a complaint relating to sexual misconduct or sexual harassment, the Rector or the Rector's representative will record the following details:

(a) The complainant's name and contact details;
(b) The names of affected College students, including any bystanders or witnesses;
(c) A brief summary of the issues raised in the complaint, including details of any prospective respondent;
(d) the identity and details of any persons named in the complaint; and
(e) the outcome or remedy sought by the complainant.

(2) Upon receiving a complaint relating to sexual misconduct or sexual harassment, the Rector or the Rector's representative will:

(a) commence and conduct a preliminary Assessment on the basis of the information obtained in [8(6)], if appropriate; and
(b) refer the complaint to the University of Sydney for investigation in accordance with the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023*.

(3) The University of Sydney may elect to decline to investigate a complaint of sexual misconduct or sexual harassment in circumstances where the substantive facts relating to the complaint render an investigation under the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023* inapplicable.

(4) The Rector or the Rector's representative will investigate a complaint of sexual misconduct or sexual harassment in the event that the University of Sydney elects not to do so under [14(3)].

(5) In the event that the University of Sydney, in accordance with [14(4)], elects not to conduct an investigation, the Rector or the Rector's representative will inform the parties to a complaint:

(a) that an investigation has been initiated;
(b) who is conducting the investigation; and
(c) the expected timeframes of the investigation.

(6) An investigator will provide a respondent with:
   (a) a statement of allegations in sufficient detail to enable the respondent to answer the allegations; and
   (b) a reasonable period of time within which to answer the allegations.

(7) An investigator shall make findings of fact and may make recommendations for resolving a complaint, in accordance with College rules, protocols, policies and procedures.

(8) Where reasonable, the investigation should be concluded within 15 working days of the commencement of the investigation, subject to the exigencies of the College and parties to the complaint.

(9) Where 15 working days is not reasonable, the Rector or Rector's representative must advise the complainant of the reasons for delay, and of the projected timeframe for the conclusion of the investigation.

15 Outcome of investigation

(1) At the conclusion of the investigation the Rector will decide whether action should be taken under the Disciplinary Code, and if so will inform the complainant in writing.

(2) If action is not taken under the Disciplinary Code, the Rector will take into account the investigation findings and any recommendations of the investigator, and give the complainant (and, where appropriate, the respondent) a written statement of the outcome of the complaint.

(3) The outcome and findings of any investigation conducted under Clause 14 will be communicated by the University of Sydney to the Rector, including any recommendations of action to be taken.

16 Vexatious complaints

(1) A person must not make a vexatious or malicious complaint.

(2) A person must not make a complaint without reasonable cause.

(3) For the purposes of this policy, a complaint will be considered vexatious or malicious if a person makes it:

   (a) knowing it to be false; or

   (b) for the primary purposes of damaging the College or the person against whom the complaint is made.

(4) If the Rector or investigator believes that a person has made a vexatious or malicious complaint:

   (a) the matter will be treated as a complaint for the purpose of this Procedure;

   (b) the Rector must make an Assessment in accordance with clause 10 of this Procedure; and

   (c) this Procedure will also apply to the determination of whether a vexatious or malicious complaint has been made.

17 External assistance and advice

(1) The College will make every reasonable effort to resolve complaints internally, subject to any agreement or arrangement with the University of Sydney requiring resolution or investigation of complaints to be conducted externally to the College.

(2) However, if a person alleges conduct by a person over whom the College has no jurisdiction, the College may be required to refer the person raising the complaint to an external complaints procedure or to another agency.

18 Confidentiality

Except as provided in clause 19, the following matters must not be disclosed to any other person, by any form of communication:

(a) the identity of the complainant, respondents and participants in any complaint or investigation;

(b) information provided or collected during any consideration or investigation of a complaint;

(c) the fact that a complaint has been made; or

(d) any report, outcome or determination of a complaint.

19 Disclosure of information

(1) When used in this clause, ***information*** refers to any information generated or collected in connection with the resolution or outcome of a complaint.

(2) Information may be disclosed by a College staff member or an investigator in the following circumstances.

(a) **To obtain a response**. Information, including information which may identify an individual as its source, may be disclosed to another participant in order to permit them to provide a proper response. Examples may include:

(i) identifying a party to a conversation in order to obtain details of that conversation; or

(ii) where an individual's identity is apparent from a document (such as an email) which cannot be appropriately edited without loss of meaning.

(b) **To prepare a report or letter**. As part of the resolution of a complaint, a College staff member or an investigator may produce, or cause to be produced, for the College, a confidential report or letter setting out the findings of facts that have been made, or associated outcomes. Such a report or letter:

(i) may be provided orally or in writing; and

(ii) may summarise or annex information or documents provided by individuals during the resolution of the complaint (including transcripts of interviews or written statements).

(c) **To enable proper performance of duties**. Any report or letter, or information may be disclosed by the College to individuals within the College if it is appropriate for the recipient to receive the material in the proper performance of their duties.

(d) **To obtain assistance or advice**. The College may disclose material to its legal or other advisers or other third parties engaged to assist in the resolution of the complaint. Participants may disclose such material to their legal or financial advisers, provided the disclosure is made on a confidential basis and the advisers agree to comply with the requirements of this Procedure.

(e) **To ensure the safety and wellbeing of a participant**. Information may be disclosed by the College where the College needs to ensure the safety or wellbeing of a participant.

(f) **To support people**. Support people present during an interview will be aware of information disclosed during the interview. Participants may also choose to disclose documents or information to any of the following, provided that the recipients agree to comply with the requirements of this Procedure:

(i) immediate family;

(ii) a qualified counsellor.

(g) **In response to enquiries.** The College may disclose information in response to enquiries from internal or external parties (including the media), provided that:

(i) any disclosure must be approved by the Rector;

(ii) disclosure will only be approved where, in the opinion of the Rector, the intended recipient has legitimate grounds to receive such information; and

(iii) where appropriate, such disclosure is made without naming the individuals

concerned in the complaint or disclosing the particular conduct alleged in the complaint or the respondent's response.

(h) **To a complainant or respondent.** The College may inform a complainant or respondent generally of the outcome of the complaint or any relevant action taken.

(i) **To other interested parties:** The College may disclose the outcome of a complaint or any relevant action taken, to third parties who are affected by the matter, subject to the requirements of paragraph (f).

(j) **Public statement:** In cases which involve conduct or comments by the complainant or respondent of a public nature, the College may disclose the outcome of a complaint or any relevant action taken, in a public statement, subject to the requirements of paragraph (f).

(k) **Legal requirements**. The College may disclose information if required to do so under any legal or regulatory requirements.

20 No victimisation

A person must not victimise or otherwise subject another person to detrimental action as a consequence of that other person raising, providing information about, or otherwise being involved in the resolution of a complaint.

21 Record keeping

(1) The College will keep appropriate records of all complaints and allow parties to the complaint reasonable access to those records.

(2) All records collected, generated or used as part of the resolution or determination of a complaint under these procedures will be stored confidentially in the College's central records management system.

NOTES

SJC Student Complaints Procedure

Date adopted: 24 January 2019

Date commenced: 01 February 2019

Date amended: 20 August 2024